## IN THE UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

ANTHONY WALTERS	)	
	)	
Plaintiff,	)	Case No. 07 C 6291
	)	
	)	
vs.	)	JUDGE COAR
	)	
Chicago Police Officers C. Bratek, Star No. 8077,	)	
and T. Martin, Star No. 12928,	)	
Individually,	)	
	)	
Defendants,	)	

## PLAINTIFF'S MOTION TO VACATE DISMISSAL FOR WANT OF PROSECUTION

NOW COMES plaintiff, by and through, his attorney of record, Garrett Browne, and in support of plaintiff's motion vacate dismissal for want of prosecution, states as follows:

- 1. On January 25, 2008, the Court entered an order striking the Rule 16(b) scheduling conference set for January 31, 2008. The same order rescheduled the Rule 16(b) scheduling conference for February 19, 2008.
- 2. However, plaintiff's counsel, Garrett Browne, inadvertently failed to calendar the scheduling conference for February 19, 2008. Rather, plaintiff's counsel mistakenly calendared the scheduling conference for February 20, 2008.
- 3. On today's date, the Court entered an order dismissing this case for want of prosecution apparently because plaintiff's counsel inadvertently failed to appear for the hearing.
- 4. Had plaintiff's counsel been aware of this mistake he would have appeared before the Court for the hearing as he was in the courthouse appearing before Judge Moran in an unrelated matter scheduled for 9:15 a.m. and plaintiff's counsel remained in Judge Moran's courtroom until approximately 9:45 a.m. Plaintiff's counsel does not mean to suggest that his appearance before

Judge Moran prevented his appearance before this Court. Rather, plaintiff's counsel only wishes to assure the Court that the failure to appear for the status hearing was not due to an unwillingness, or failure, to appear in the courthouse. Likewise, the failure to appear before this Court was not the result of plaintiff's counsel ignoring this case as he had exchanged voice mail messages with defense counsel in an attempt to agree to a discovery schedule in advance of the Rule 16(b) conference. Plaintiff's last voice mail message was left for defense counsel on Monday February 18, 2008. Apparently, defense counsel was not working that day.

- 5. Plaintiff's counsel apologizes to the Court for this inadvertent error, and while it certainly should not have happened it was completely unintentional.
- 6. Plaintiff's counsel respectfully requests that the Court grant plaintiff's motion to vacate the dismissal for want of prosecution as granting such a motion will not cause any undue prejudice to defendants. However, denying such a motion would result in extreme prejudice to plaintiff in as much as it would result in him being denied an opportunity to have his claims decided on their merits.

WHEREFORE, plaintiff respectfully requests that this honorable Court grant plaintiff's motion to vacate the dismissal for want of prosecution entered on February 19, 2008.

Respectfully submitted,

BY:/s/Garrett Browne
Garrett Browne

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